

REMARKS

Claims 1-36 are pending and subject to a restriction requirement. In particular, the Examiner requires restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claims 1-24, drawn to a method of making a refrigerant mixture; and

Group II: Claims 25-36, drawn to a refrigeration system using a non-chlorofluorocarbon refrigerant mixture.

Applicants have thoroughly reviewed the outstanding Office Action and hereby elect, *with traverse*, Examiner's Group II (that is, claims 25-36, wherein claim 25 is independent and claims 26-36 depend therefrom). This election and the following remarks are believed to be fully responsive to the Office Action.

The Examiner characterizes the inventions of Groups I and II as a process and an apparatus for its practice. Citing MPEP § 806.05(e), the Examiner further states that, since the process of Group I may be practiced by hand, the inventions are distinct and restriction is proper. Applicant respectfully disagrees.

Applicant points out that the Examiner has mischaracterized the relationship between Groups I and II. While Group I is indeed a method of making a refrigerant mixture, Group II is *not* an apparatus for practicing the method of Group I. Rather, Group II is a refrigeration system utilizing the product of the process of Group I. That is, rather than a process and an apparatus for its practice, Applicant claims a process and an apparatus utilizing the product of the process. MPEP § 806.05(e) is therefore inapposite to the pending claims; that the process as claimed can be practiced by hand is irrelevant to distinguishing Group I from Group II. Put simply, the claims of Group I are not distinct from those of Group II. Noting that applicants have a statutory right to claim an invention as they see fit, In re Weber, 580 F.2d 458, Applicant respectfully submits that the distinction asserted by the Examiner is incorrect and cannot support the restriction requirement.

Further, where search and examination of an entire application can be made without serious burden, the Examiner must examine the application on the merits even if the claims are drawn to distinct inventions. MPEP § 803. Applicant respectfully submits that the Examiner

nowhere contends, let alone demonstrates, that a search of all pending claims would be a serious burden. Further, at the Examiner's disposal are powerful electronic search engines providing the Examiner with the ability to quickly and easily search all pending claims.

For the foregoing reasons, Applicant respectfully submits that the inventions of Groups I and II are not independent or distinct. In the alternative, should the Examiner find a proper distinction between the claims of Group I and Group II, Applicant respectfully submits that it would not be a serious burden for the Examiner to search and examine all pending claims. Accordingly, Applicant respectfully requests withdrawal of the restriction requirement and examination of all pending claims. If, for any reason, the Examiner disagrees, the Examiner is invited to contact the undersigned in an effort to resolve any matter still outstanding before issuing another action.

Applicant hereby conditionally petitions under 37 C.F.R. § 1.136 for any extensions necessary for this paper to be considered timely filed. Please charge any fee deficiencies and credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 87334.5880.

Respectfully submitted,

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